

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|-----------------------------|---|----------------------------------|
| In re Application of: |) | |
| |) | |
| Takeshi KURODA et al. |) | Group Art Unit: 1625 |
| |) | |
| Application No.: 10/582,014 |) | Examiner: Seaman, D. Margaret M. |
| |) | |
| Filed: June 7, 2006 |) | |
| |) | Confirmation No. 8946 |
| For: CARBOSTYRIL COMPOUND |) | |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

APPLICATION FOR PATENT TERM ADJUSTMENT—PRE-GRANT

In accordance with 37 C.F.R. § 1.705(b), Applicants hereby apply for patent term adjustment under 35 U.S.C. § 154(b) of 727 days. This Application is being filed before payment of the issue fee, as required by 37 C.F.R. § 1.705(b).

I. Statement of the Facts Involved

A. Correct Patent Term Adjustment

Applicants received the Determination of Patent Term Adjustment with the Notice of Allowance and Fee(s) Due mailed from the Patent and Trademark Office (PTO) on November 18, 2009, advising that the current application is entitled to 432 days of patent term adjustment. Applicants submit that the PTO's calculation is inaccurate. The patent term adjustment should be 727 days, as supported by the following facts.

B. Relevant Dates

Applicants filed the instant application as a National Stage Application of PCT/JP2005/018217 on June 7, 2006. As set forth in the Notice of Acceptance of Application mailed April 10, 2007 ("Notice"), all of the requirements under 35 U.S.C. § 371(c) were met on June 7, 2006.

The first substantive Office Action was mailed on August 3, 2009, resulting in a PTO delay of 727 days beyond the 14 months provided by 35 U.S.C. § 154(b). Under 35 U.S.C. § 154(b)(1)(A)(i), the 14-month period after the date on which the current application fulfilled the requirements of 35 U.S.C. § 371(c) began on August 7, 2007. Applicants calculate this 727 day adjustment based on the period from August 7, 2007, through August 3, 2009. Applicants note that the Office indicated in the Notice that all of the requirements of 35 U.S.C. § 371 were met on March 28, 2007. Applicants believe this date is in error, as none of the items listed as received on the Notice have a filing date of March 28, 2007. Rather, Applicants contend that this date should also be June 7, 2006. Nonetheless, the Notice indicates that the requirements of 35 U.S.C. § 371(c) were met on June 7, 2006.

Applicants filed a response to the first Office Action on November 3, 2009, resulting in no reduction of patent term adjustment.

A Notice of Allowance was mailed on November 18, 2009, resulting in no increase in patent term adjustment.

C. Terminal Disclaimer

The current application is not subject to a Terminal Disclaimer.

D. Reasonable Efforts

There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the current application, as set forth in 37 C.F.R. § 1.704.

II. Fee

As required by 37 C.F.R. § 1.705(b)(1), this Application is accompanied by a fee of \$200.00. If there are any other fees due in connection with the filing of this Application, please charge them to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: January 27, 2010

By: _____

Maryann T. Puglielli
Reg. No. 52,138
(202) 408-6054